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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,121	02/04/2004	Jason Clay Pearson	71580/US02	4287

7590 03/17/2006

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EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,121

Applicant(s)

PEARSON ET AL.

Examiner

Peter Szekely

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/9/04, 9/16/04, 1/12/05, 5/24/05, 4/28/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language:

2. Claims 1, 2, 34 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Pierre et al. 2003/0109629, Agniel et al. 2002/00450222 or Opalko 6,469,083.
3. Pierre et al disclose a blend of a polyester, a polycarbonate and a hindered amine in claim 1. Irgaphos 168, Santostab P-EPQ, Tinuvin 622 and Uvinul 5050 can be found in Tables 1-3. Agniel et al. teach PET in claim 1, phosphites in paragraph 0018 and Tinuvin 622 in paragraph 0200. Opalko recites polyesters in claim 9, hindered amines in column 4, lines 27-46 and phosphites in column 4, lines 47-60. Most polyesters are made by a metal catalyzed reaction of a diacid and a diol. Applicants' claims are not novel.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 2, 34 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Panandiker et al. 6,284,845, Aylward et al. 6,187,523, Hudson et al. 6,077,890, Webster 5,965,261, Pfaedner et al. 5,859,073, Golder et al. 5,032,631, Funasaki et al. 4,956,407 or Morris et al. 4,525,504.

6. Panandiker et al. divulge Tinuvin 144 and Irgafos 168 in column 11 lines 32-39 and polyesters in claim 1. Aylward et al. reveal polyester in claim 1, HALS and phosphites in the paragraph overlapping columns 15 and 16. Hudson et al. display polyesters in column 10, line 31, hindered amines in claim 3 and phosphites in claim 5. Webster reports the blend of Sandostab P-EPQ and Clariant's S-EED in polyester in Table 1. Pfaender et al. present a blend of a polyester and a polycarbonate in claim 1, phosphites in claim 5 and hindered amines in column 25, lines 24-27. Morris et al. describe a polyester in claim 1, and the claimed stabilizer blend in Tables II and IV. Most polyesters are made by a metal catalyzed reaction of a glycol and a diacid. Applicants' claims are not novel.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre et al. 2003/0109629, Agniel et al. 2002/0045022, Opalko 6,469,083, Panandiker et al. 6,284,845, Aylward et al. 6,187,523, Hudson et al. 6,077,890, Webster 5,965,261, Pfaender et al. 5,859,073, Golder et al. 5,032,631, Funasaki et al. 4,956,407 or Morris et al. 4,525,504, in view of Moskala et al. 6,551,688, Jeon et al. 6,342,579, Keep 6,277,905, Jones et al. 6,103,857, Cobb et al. 6,100,320, Cornell et al. 6,054,551, Minnick et al. 5,919,848, Dickerson et al. 5,656,715, Carico et al. 4,972,015, Light et al. 4,578,437 or Jackson, Jr. et al. 4,287,325.

10. The primary references have been discussed already. The secondary references prove that polyesters having all kind of inherent viscosities, containing all kind of diacid and glycol residues, have been made before and they are well known. Since applicants made no showing that either the molecular weight or the individual monomers making up the polyester has even the slightest effect on the stability of the polyester, it would have been obvious to one having ordinary skill in the art; at the time the invention was made, to use the stabilizer system claimed by applicants in any and all polyesters extant. Since polyesters are generally made by titanium, cobalt and/or manganese catalysts residues of said metals would be found in polyesters in small


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quantities. Up to 200 ppmw includes zero.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Peter Szekely
Primary Examiner
Art Unit 1714

P.S.
3/14/06